

AN ORDINANCE AMENDING CHAPTER 10, ENTITLED ZONING,  
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA  
BY AMENDING SECTION 10-21 BY ALLOWING THE REMOVAL OR FILLING  
OF CLEAN EARTH FILL BY SPECIAL USE PERMIT  
IN THE A-1 AGRICULTURAL DISTRICT, BY AMENDING SECTION 10-48  
CREATING CERTAIN ADDITIONAL REGULATIONS APPLICABLE  
FOR A SPECIAL USE PERMIT ALLOWING THE REMOVAL OR  
FILLING OF CLEAN EARTH FILL AND  
BY AMENDING SECTION 10-61 BY CREATING A DEFINITION OF  
CLEAN EARTH FILL DEFINING WHAT SOIL MATERIAL MAKE-UP  
SHALL BE CONSIDERED CLEAN EARTH FILL

BE IT ORDAINED, by the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, entitled Zoning, Section 10-21, 10-48 and 10-61 of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

Section 10-61 Definitions.

*Clean Earth Fill:* Fill that consists of any soil material that occurs naturally on the surface of the earth which can be dug, plowed or planted, that can be classified as a soil in accordance with the “unified soil classification system”, which contains less than twenty-five (25) percent combination of rock fragments, asphalt and/or concrete all no greater than three inches in diameter and that contains less than five (5) percent by volume natural wood materials embedded in the soil. Clean earth fill shall be free of:

- 1) any contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations; and
- 2) construction debris, demolition waste, and other materials not found in naturally occurring soils.

Section 10-21 A-1 Agricultural District.

- (4) (i) Uses permissible by special use permit. The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:
  - (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
  - (b) Bed and breakfast inn.
  - (c) Boarding house.

- (d) Campground.
- (e) Camp, boarding.
- (f) Civic club.
- (g) Contractor's storage yard.
- (h) Country club.
- (i) Country inn.
- (j) Custom meat cutting, processing and packaging.
- (k) Day care center.
- (l) Disposal facility, landfill.
- (m) Exploratory activities associated with extractive industries.
- (n) Extractive industries and accessory uses including, but not limited to, the mining of minerals and the operation of oil and gas wells.
- (o) Game preserve.
- (p) Garden center.
- (q) General store or specialty shop, provided gross floor area is two thousand (2,000) square feet or less.
- (r) Golf course.
- (s) Golf driving range.
- (t) Grain mill, feed mill.
- (u) Home business.
- (v) Junkyard, automobile graveyard.
- (w) Kennel, commercial (refer to use limitations in subsection 7).
- (x) Landfill (see Disposal facility).
- (y) Livestock market.
- (z) Park, lighted.
- (aa) Playground, lighted.
- (bb) Public utility plant, other.
- (cc) Public utility substations.
- (dd) Public utility plant water or sewer (not including distribution or collection lines).
- (ee) Recreational vehicle park.
- (ff) Recycling collection points.
- (gg) Repair shop, automotive (refer to use limitations in subsection 7).
- (hh) Restaurant, provided gross floor area is two thousand (2,000) square feet or less.
- (ii) Removal or filling of Clean Earth Fill. (Refer to additional regulations in Section 10-48 (8)).
- ~~(ii)~~(jj) Rural resort.
- ~~(jj)~~(kk) Sawmill.
- ~~(kk)~~(ll) Shooting range (as principal use or accessory to a gun shop). (Refer to use limitations in subsection 7).
- ~~(ll)~~(mm) Slaughterhouse.
- ~~(mm)~~(nn) Solid waste collection point.
- ~~(nn)~~(oo) Stable, commercial.
- ~~(oo)~~(pp) Structures, nonresidential, totaling in excess of twenty thousand (20,000) gross square feet.
- ~~(pp)~~(qq) Structures over forty (40) feet in height.
- ~~(qq)~~(rr) Telecommunications tower, freestanding.

~~(rr)~~(ss) Transition house.

~~(ss)~~(tt) Flea market (also subject to requirements of article VI of the County Code).

~~(tt)~~(uu) Stone engraving and sales.

~~(uu)~~(vv) School of special instruction.

## Section 10-48 Additional Regulations for Special Uses

### (8) Removal or Filling of Clean Earth Fill.

(a) The removal or filling of clean earth fill shall be allowed only in zoning districts where such use is a permitted use by right or by Special Use Permit except under the following circumstances:

(i) When such removal or placement of clean earth fill is necessarily incidental to or in connection with the following:

(1) construction on the same site of a structure for which a building permit has been issued within the past six months, or

(2) for grading pursuant to an approved subdivision

(ii) when such removal or placement of clean earth fill includes less than 200 cubic yards or less than 10,000 square feet during any twelve month period.

(b) The applicant shall set forth the following in addition to the written application required for applying for a Special Use Permit:

(i) name and address of Applicant;

(ii) name and address of the Owner, if other than Applicant;

(iii) description and location of the land in question, including the tax map and lot number;

(iv) the purpose or reason for moving, filling or removal of the clean earth fill;

(v) the nature and quantity in cubic yards of soil to be removed or filled;

(vi) the place to which the soil is to be removed or placed;

(vii) the proposed date of completion of the soil removal or fill.

(c) In addition to the written application for a Special Use Permit and the information required under 10-48 (8) (b) above the applicant shall submit a plan that addresses the following:

- (i) Procedures and measures that will be taken by the applicant to ensure that noise and dust problems are held to a minimum.
  - (ii) Procedures and measures that will be taken by the applicant to assure lateral support of remaining soil and the prevention of erosion, floods and siltation of water courses during the active life of the operation and after the soil removal or fill operation ceases.
  - (iii) Procedures and measures that will be taken by the applicant that will protect adjoining and downstream properties from the affects of the soil removal or fill operation.
  - (iv) The routes over which the material will be transported, the method of traffic control and the ability of the road network to handle the amount and type of traffic generated by the soil removal or fill operation.
  - (v) The type, capacity and description of each piece of equipment to be used during the soil removal, fill and movement operation.
  - (vi) A topographical map shall be included prepared and certified by a professional engineer or land surveyor. The map shall show the following:
    - (1) the present grades on a one-hundred foot grid layout using ten foot contour intervals;
    - (2) the proposed finished grades using ten-foot contour intervals;
    - (3) the quantity in cubic yards of soil to be removed or filled and the areas where the operation will take place;
    - (4) the grades of all streets and lots within 100 feet of the property in question;
    - (5) proposed sloped and lateral support;
    - (6) present and proposed surface water drainage;
    - (7) a plan for the restoration of the site when soil removal or fill operation ceases.
- (d) The applicant shall comply with all applicable Stormwater and/or Erosion and Sediment Control regulations.